COVINGTON & BURLING

PRIVILEGED AND CONFIDENTIAL
ATTORNEYS' WORK PRODUCT

March 27, 1986

MEMORANDUM TO THE INGREDIENTS WORK GROUP

Re: Public Relations Strategy for Submission of Ingredients List

This memorandum outlines our tentative plans for responding to media inquiries following the submission of the ingredients list to the Department of Health and Human Services (HHS) on April 2. Background materials that might be used as the basis for communications with the media are appended to the memorandum.

The enclosed package was developed following a meeting with John Scanlon, Peter Hirsch, and James Cox of Daniel J. Edelman, Inc. on March 6. We also met with a group of product liability counsel on March 17 to obtain their thoughts on the various drafts included in the package.

Procedures for Handling Media Inquiries

Several companies have suggested that it would be desirable, at least initially, to establish a procedure under which the Tobacco Institute and individual companies would be able to direct inquiries from the news media to Covington & Burling, which has been functioning as the companies' agent in connection with the submission of the list to HHS. Use of a central spokesman would, it has been suggested, help prevent confusing and inconsistent statements. For purposes of this memorandum, we assume that such a procedure will be followed.

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The precise role to be played by Daniel J. Edelman, Inc. will depend on the degree of publicity generated by submission of the list. If the list is not disclosed publicly and media interest is limited, Covington & Burling could handle media inquiries directly. On the other hand, if the list is disclosed and evokes considerable media interest, Edelman would help screen press inquiries and advise on how to handle them. We expect that Edelman would return the calls of reporters who have contacted Covington & Burling, determine their main areas of interest, and pass this information along before we speak to the reporter directly. (A similar procedure has apparently been used in connection with the product liability cases.) Edelman would not respond in a substantive manner to reporters' questions, and would not speak to reporters for attribution.

General Objectives and Tactics

Our overall objective is to minimize the publicity and controversy surrounding submission of the list. To that end, we would (1) avoid stimulating media interest that would not otherwise exist, (2) emphasize that evaluation of the list is a scientific process that should go forward without disruptive publicity, (3) decline to discuss individual ingredients based on trade secret considerations, (4) note the industry's willingness to participate with HHS in addressing scientific issues, and (5) emphasize important general points about ingredients usage.

The specific tactics for achieving these objectives will necessarily depend on the scope and intensity of media interest in ingredients issues. We have identified four possible scenarios that may unfold following submission of the list. These scenarios, and the tactics we would follow for each, are described below.

Scenario I: The List Is Submitted But Not Leaked

Under this scenario, the list would not be disclosed and media interest would probably be fairly limited. Inquiries would be handled by a brief statement acknowledging submission of the list, stressing the trade secret character of individual ingredients, and expressing the industry's willingness to cooperate with HHS. This statement might either be used as a talking paper during telephone discussions with reporters or released in response to inquiries.

A draft of the statement that would be used by Covington & Burling is enclosed at Tab A. Tabs B and C contain drafts of brief statements that could be used by individual companies and the Tobacco Institute to refer inquiries to Covington & Burling.

Scenario II: Unauthorized Disclosure of the List Generates a Brief Flurry of Publicity

Under this scenario, all or portions of the list would be leaked to the press, and disclosure of the list would generate a brief flurry of media interest that then subsides.

News stories might appear in newspapers or broadcast media that highlight the length and complexity of the list, raise general concerns about the safety of cigarette ingredients, and perhaps identify a small number of specific compounds. There would, however, be no in-depth coverage of issues such as the adequacy of available test data, and specific ingredients would not be singled out as a cause for concern. Statements by anti-smoking advocates might be quoted, but these statements would be fairly general in nature.

In these circumstances, we would respond to press inquiries by expressing disappointment about the unauthorized disclosure of the list but would continue to decline to discuss specific ingredients. We would also emphasize a number of general points about the functions performed by ingredients and the quantities of ingredients present in cigarettes. Depending upon the extent and nature of the publicity, we might further note that many cigarette ingredients are also used in foods and other articles for human consumption.

A draft statement making the above points is attached at Tab D. The statement might be released in response to press inquiries or used as a talking paper during telephone discussions.

Scenario III: Following Disclosure of the Ingredients List, There Is Sustained and Intense Media Coverage of Ingredients Issues

Under this scenario, the initial flurry of news stories accompanying disclosure of the list would be followed by an extended period of in-depth media interest in ingredients issues. This interest could take a variety of forms, including stories in newspapers and magazines or features on nightly newscasts or weekly news programs such as 60 Minutes. Considerable attention might be devoted to issues such as the effects of pyrolizing ingredients, the adequacy of industry testing programs, the need for obtaining additional test data, the failure of the industry to disclose the ingredients used in individual brands, and the desirability of tighter controls on ingredient usage. Attention could also focus on particular ingredients, with questions being raised about the implications of available data and the ingredient's contribution to the alleged hazards of cigarette smoke. Anti-smoking advocates with scientific credentials might be asked to review the list and to comment on the issues it raises. In addition, companies might be pressed to disclose whether specific ingredients are used in their brands.

In this situation, reliance on a general statement might be inadequate to address media concerns, and a more detailed response might be necessary. We would have to be prepared to address a wide range of questions and to rebut several allegations.

We have attempted to anticipate issues that might arise if there is intense media interest in ingredients and to prepare model responses. A draft set of questions and answers is included at Tab E.

We have not included questions and answers on individual ingredients because, in the judgment of product liability counsel, it is inadvisable to comment on the data relating to specific substances. If the issue is raised, however, we would be prepared to deny that the six companies use coumarin, cloves, eugenol or other substances that may appear on a composite list which reflects the submissions to HHS of importers and small manufacturers.

Our strategy for interacting with the media at this stage would necessarily remain flexible. While we would hope to maintain a low profile, it may be necessary to take steps to rebut assertions that are unfair or inaccurate. Thus, in addition to responding to calls from reporters, we might meet with a small group of media representatives or release a background paper responding to various issues that have been raised. In addition, Daniel J. Edelman Inc., in returning reporters' calls, would gauge the extent of the caller's awareness of the relevant issues and on a background basis provide appropriate information.

If scientific issues are raised that Covington & Burling is not in a position to address, we might also call on our scientific consultants, who could respond to specific

questions or make themselves available for interviews if appropriate. We currently expect that Dr. Borzelleca will be our main spokesman. We are also working with Drs. Friess and Squire and, depending on timing and other factors, they might participate as well.

Scenario IV: Congressional Hearings Are Held

Congressional interest in ingredients may be stimulated by media coverage of disclosure of the list or transmission of the report on ingredients that HHS is required by law to prepare. As a result, Congressional committees may decide to hold hearings on ingredients. These hearings may address such subjects as the status of HHS' evaluation of the list, the safety of particular ingredients, and the adequacy of existing test data. Attention could also be focused on the need for new legislation that might require additional testing, create an ingredients approval procedure, or require the disclosure of ingredients in the labeling for particular brands.

Should such hearings occur, it would be necessary to address a variety of scientific, legislative, and public relations concerns. A strategy to deal with these concerns should be developed if and when the prospect of hearings materializes.

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